

Policy Goal

Crime victims' compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (CSEC).

Victims of domestic minor sex trafficking and CSEC should be afforded access to crime victims' compensation, which is critical to fund the process of restoration. At the societal level, awarding compensation acknowledges that trafficking is a crime. At the individual level, compensation acknowledges victims' pain and suffering. At the practical level, compensation can assist victims in rebuilding their lives. However, crime victims' compensation programs frequently contain eligibility criteria that can foreclose a domestic minor sex trafficking victim's access to an award, such as requiring cooperation with law enforcement, reporting the crime within short time limits, and being deemed to have contributed to the crime for which they are claiming compensation. Ultimately, providing access for victims of child sex trafficking and CSEC to victims' compensation funds with clear exceptions to the ineligibility factors facilitates healing and justice without risking re-victimization.

EXAMPLES OF LEGISLATIVE SOLUTIONS

FLORIDA

Pursuant to Fla. Stat. Ann. § 960.065(5), "A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation as defined in s. 39.01(71)(g)." Fla. Stat. Ann. § 39.01(71)(g) defines sexual exploitation of child to include "the act of a child offering to engage or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to: 1. Solicit for or engage in prostitution; or 2. Engage in a sexual performance, as defined by chapter 827 [Abuse of children]; or 3. Participate in the trade of human trafficking as provided in s. 787.063(3)(g) [Human trafficking]."

LOUISIANA

La. Rev. Stat. Ann. § 46:1804 (Eligibility to apply for reparations) states, "A person who believes he is a victim of a crime enumerated in R.S. 46:1805 [Crimes to which chapter applies] . . . shall be eligible to make an application to the board for reparations and shall be eligible for an award of reparations in accordance with the provisions of this Chapter." La. Rev. Stat. Ann. § 46:1804 defines "victim" to include trafficking or CSEC, stating, "Any person who

suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by this Chapter. This includes any person who is a victim of human trafficking as defined by R.S. 14:46.2, a victim of trafficking of children for sexual purposes as defined as defined by R.S. 14:46.3, or a victim of an offense involving commercial sexual exploitation but not limited to R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282."

MONTANA

Mont. Code Ann. § 44-4-1502 (Eligibility for benefit or service) states, "A child who has engaged in commercial sexual activity is eligible for a benefit or service available through the state, including compensation under Title 53, chapter 9, part 1 [The Crime Victims Compensation Act of Montana], regardless of . . . factors described in 53-9-125 [Limitations on awards] . . ."

NEW YORK

N.Y. Penal Law § 621(5) (Definitions) defines "victim" as "(a) A person who suffers personal physical injury as a direct result of a crime; (b) a person who is the victim of . . . (14) sex trafficking of a child as defined in section 230.34-A of the penal law." Furthermore, "child victim" is defined under N.Y. Exec. Law § 621(11) as "a person

less than eighteen years of age who suffers physical, mental, or emotional injury, or loss or damage, as a direct result of a crime or as a direct result of witnessing a crime”

N.Y. Exec. Law § 631(1) (Awards) states in part, “No award shall be made unless the office finds that (a) a crime was committed, (b) such crime directly resulted in personal physical injury to or the exacerbation of a preexisting disability, or condition, or death of, the victim, and (c) criminal justice agency records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the criminal justice agency records show that such report was made more than one week after the occurrence of such crime unless the office, for good cause shown, finds the delay to have been justified. Notwithstanding the foregoing provisions of this subdivision, in cases involving an alleged sex offense as contained in article one hundred thirty of the penal law or . . . sex trafficking as defined in sections 230.34 and 230.34-A of the penal law . . . , the criminal justice agency report need only be made within a reasonable time considering all the circumstances, including the victim’s physical, emotional and mental condition and family situation”

N.Y. Exec. Law § 631(17) states, “Notwithstanding the provisions of subdivision one of this section, where a child victim has not been physically injured as a direct result of a crime . . . , or has witnessed a crime . . . in which no physical injury occurred, the claimant shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property of the child victim that has been lost, damaged or destroyed as a direct result of a crime . . . , transportation expenses incurred by the claimant for necessary court appearances of the child victim in connection with the prosecution of such crimes, and, if counseling is commenced within one year from the date of the incident or its discovery, (1) the unreimbursed cost of counseling provided to the child victim on account of mental or emotional stress resulting from the incident in which the crime . . . occurred, and/or (2) the unreimbursed cost of counseling provided to the claimant eligible under paragraph (h) of subdivision one of section six hundred twenty-four of this article and resulting from the incident in which the crime . . . occurred.”

OHIO

Ohio Rev. Code Ann. § 2743.60(J) (Grounds for denial of claim or reduction of award; limit on aggregate awarded) states, “Nothing in [2743.60] shall be construed to prohibit an award to a claimant whose claim is based on the claimant’s being a victim of a violation of section 2905.32 [Compulsion to involuntary servitude] of the Revised Code if the claimant was less than eighteen years of age when the criminally injurious conduct occurred.”